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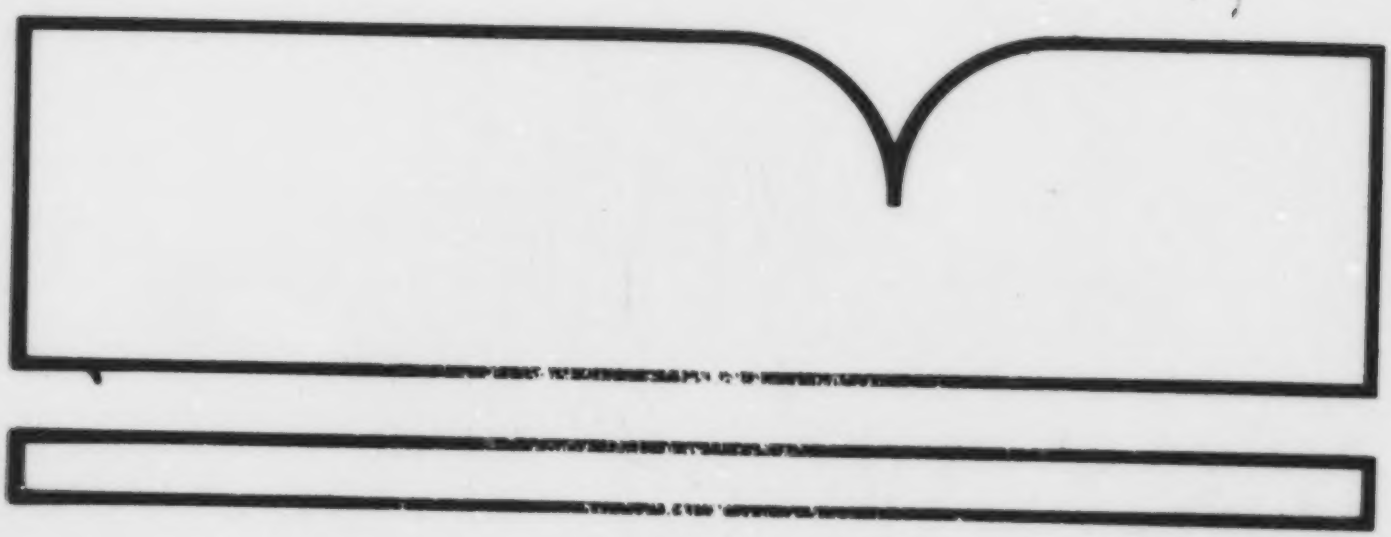
Regulations and Non-Regulatory Revisions to State Implementation Plan: Alaska

Atlantic Environmental Associates, Inc.
Waltham, MA

Prepared for

Environmental Protection Agency
Research Triangle Park, NC

Oct 81



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Regulations and Non-Regulatory Revisions to State Implementation Plan: Alaska

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EPA-450/2-81-021

Regulations and Non-Regulatory Revisions to State Implementation Plan: Alaska

By

Atlantic Environmental Associates, Inc.
59 Vernon Street
Waltham, MA 02154

Contract No. 68-02-3565

EPA Project Officer: Willis P. Beal

Prepared for

U.S ENVIRONMENTAL PROTECTION AGENCY
Control Programs Development Division
Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711

July 1981

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16. ABSTRACT

This document has been produced in compliance with Section 110(h) of the Clean Air Act, as amended in 1977, which mandates periodic publication of State Implementation Plan (SIP) requirements. The first section of the document comprises the Federally approved SIP regulations. It consists of the EPA-approved State and/or local air pollution control regulations cited by reference in the Federal Register; regulations promulgated as of August 1, 1981 have been included in this document.

The present compilation constitutes an update of a previous documentation of regulations as of July 1, 1979. State and/or local air quality regulations which have not been Federally approved as of August 1, 1981, are not included. However, any omissions of regulations from this document in no way affects the ability of the respective Federal, State, or local agencies to enforce such regulations. A summary sheet of the regulatory revisions is provided to give a quick historical assessment of the changes.

The second part of the document contains the text of non-regulatory SIP revisions approved by EPA up to August 1, 1981, excluding notices or certifications of public hearings and technical support data. A complete tabulation of these revisions is also provided.

17. KEY WORDS AND DOCUMENT ANALYSIS

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This report has been reviewed by the Control Programs Development Division of the Office of Air Quality Planning and Standards, EPA, and approved for publication. Mention of trade names or commercial products is not intended to constitute endorsement or recommendation for use. Copies of the entire document are available for inspection and copying at EPA Headquarters (401 M Street SW, Washington, DC 20460), EPA's Office of Air Quality Planning and Standards (Room 826, 411 West Chapel Hill Street, Durham, NC 27701), and the appropriate EPA Regional Offices. Documents containing only the regulatory portions of each State Implementation Plan may be ordered for a nominal fee from the National Technical Information Services, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

PREFACE

This document has been produced in compliance with Section 110(h) of the Clean Air Act, as amended in 1977, which mandates periodic publication of State Implementation Plan (SIP) requirements. The first section of the document comprises the Federally approved SIP regulations. It consists of the EPA approved State and/or local air pollution control regulations cited by reference in the Federal Register; all regulations Federally promulgated as of August 1, 1981 have been included.

The present compilation constitutes an update of a previous documentation of regulations as of July 1, 1979.* State and/or local air quality regulations which have not been Federally approved as of August 1, 1981 are not included. However, any omissions of regulations from this document in no way affects the ability of the respective Federal, State or local agencies to enforce such regulations.

This document is not intended to provide a tool for determining the enforceability of any given regulation. Rather, it is intended to provide a comprehensive compilation of those regulations which are incorporated by reference into Title 40, Part 52, of the Code of Federal Regulations (CFR). The exclusion of a Federally approved regulation from this document does not diminish the enforceability of the regulation. Similarly, the inclusion of a given regulation in this document does not, in itself, render the regulation enforceable by either the State or EPA.

The regulations have been organized in this document according to the official State/local agency format. However, since State air quality regulations vary widely in their organization, content, and language, a standardized subject index has been added. The index listings consist of both pollutant and activity oriented categories to facilitate usage. For example, regulations which apply to copper smelters may be found under sulfur compounds (50.2), particulate matter process weight (50.1.1), or copper smelters (51.15). Federal regulations pertaining to a given State are not included herein but can be found under Title 40 Code of Federal Regulations, Part 52.

Additionally, a summary sheet of the regulatory revisions is included to provide a quick historical assessment of the changes. These summary sheets contain the date of submittal to EPA of each revision and the Federal Register publication date on which the revision was approved by EPA. A brief description of the regulation which was submitted is also included.

In accordance with the Act, the second part of the document contains non-regulatory SIP revisions approved by EPA up to August 1, 1981. All approved non-regulatory revisions listed under Identification of Plan in the CFR are included except notices or certifications of public hearings, and technical support data. Non-regulatory submittals which have only received EPA approval on selected elements are included in their entirety with an accompanying indication of the status of Federal actions on the non-approved elements. The non-regulatory revisions have been organized in this document

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* Regulations and Non-Regulatory Revisions to State Implementation Plan: Alaska, EPA-450/2-80-008, prepared under Contract 68-02-3388, July 31, 1980.

according to the date of publication of EPA approval in the Federal Register. For historical completeness, a complete tabulation of these revisions is provided at the beginning of this second section.

SUMMARY OF
EPA-APPROVED REGULATORY REVISIONS TO STATE OF ALASKA SIP
BETWEEN JULY 1, 1979 AND JULY 31, 1981

Publication of Approval	Submittal Date	Page	Document Description
None	- - -	-	No revisions were approved during this period.

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TITLE 18. ENVIRONMENTAL CONSERVATION

18 AAC 50.010 APPLICABILITY OF LOCAL GOVERNMENT REGULATIONS

A local air quality control agency may establish the same or more stringent regulations, but not less stringent regulations as the applicable regulations specified in this chapter.

AUTHORITY: AS 46.03.020 (10) (A)
AS 46.03.140

18 AAC 50.020 AMBIENT AIR QUALITY STANDARDS

(a) The State ambient air quality shall be maintained at the lowest practicable air contaminant concentrations. In no event shall these concentrations exceed the following levels corrected to standard conditions.

(1) Suspended particulate matter

(A) annual geometric mean; 60 micrograms per cubic meter.

(B) 24-hour maximum not be exceeded more than once a year; 150 micrograms per cubic meter.

(2) Sulfur oxides (measured as sulfur dioxide)

(A) annual arithmetic mean; 60 micrograms per cubic meter.

(B) 24-hour maximum not to be exceeded more than once a year; 260 micrograms per cubic meter.

(C) 3-hour maximum not to be exceeded more than once a year; 1300 micrograms per cubic meter

(3) Carbon monoxide not be exceeded more than once a year;

(A) 8-hour maximum; 10 milligrams per cubic meter.

(B) 1-hour maximum; 40 milligrams per cubic meter.

(4) Photochemical oxidants

1-hour maximum not to be exceeded more than once a year; 160 micrograms per cubic meter.

(5) Nitrogen dioxide

annual geometric mean; 100 micrograms per cubic meter.

(6) Hydrocarbons

3-hour maximum not to be exceeded more than once a year; 160 micrograms per cubic meter.

(b) In areas where existing air quality is better than the ambient air quality standards specified in (a) above, the department shall enforce the air contaminant emission requirements as specified in this chapter so as to minimize degradation of the air quality.

AUTHORITY: AS 46.03.010
AS 46.03.020 (10) (A)
AS 46.03.140

18 AAC 50.030 OPEN BURNING

(a) Within unified municipalities, incorporated cities, and service areas having refuse pickup:

(1) Open burning is permissible except that those materials which tend to result in the emission of black smoke or odors, including but not limited to putrescible garbage, asphalt, rubber, oil wastes, and asphalt-impregnated materials, may not be burned in the open. Permissible open burning is further subject to the limitations of (d) and (e) of this section, and the exception of (c) of this section.

(2) The open burning of debris, trees and brush accumulated during land clearing operations shall be conducted, except as specified in (d) of this section, in such a way as to obtain maximum combustion efficiency throughout the burning period. Tires or similar organic matter may not be used to start or maintain the fire.

(b) For areas not covered by (a) of this section, open burning for the disposal of oils, oily wastes, asphalt and tars and similar waste materials is prohibited unless conducted pursuant to a permit from the department.

(c) Controlled fires for the purpose of training fire fighting personnel require prior written approval from the department. Controlled fires for disposing of demolition wastes require prior written approval from the department. After such fires have been conducted, summary reports shall be submitted to the department.

(d) No open burning shall be allowed if an air quality advisory is broadcast on a radio or television station in an area, stating that burning is not permitted for that day. This advisory shall be based on weather conditions being such that air ventilation in the affected area is inadequate to provide for maintenance of the ambient air quality standards specified in section 20 of this chapter.

(e) Open burning shall be regulated at landfill sites as specified in Title 18 AAC 60, SOLID WASTE MANAGEMENT.

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140

18 AAC 50.040 INCINERATORS

(a) Visible emissions, excluding condensed water vapor, from incinerators may not result in a reduction of visibility through the exhaust effluent greater than:

(1) 20 percent for those incinerators installed on or after July 1, 1972.

(2) 40 percent for incinerators installed and operating prior to July 1, 1972. These incinerators shall comply with the requirements of (a)(1) of this section after July 1, 1975.

for a period or periods aggregating more than three minutes in any hour.

(b) Particulate matter emitted from incinerators installed on or after July 1, 1972, and from all incinerators after July 1, 1975, may not exceed, on the basis of a cubic foot of exhaust gas corrected to 12 percent CO_2 and standard conditions, and except as specified in (c) and (d) of this section:

(1) 0.3 grains for incinerators less than or equal to 200 pounds per hour rated capacity;

(2) 0.2 grains for incinerators larger than 200 but equal to or less than 1000 pounds per hour rated capacity;

(3) 0.1 grains for incinerators larger than 1000 pounds per hour rated capacity.

(c) Particulate matter emitted from tepee burners may not exceed, on the basis of a cubic foot of exhaust gas corrected to 12 percent CO_2 and standard conditions.

(1) 0.1 grains for those burners installed or modified on or after July 1, 1972.

(2) 0.2 grains for those burners in operation prior to July 1, 1972.

(d) Particulate matter emitted from air curtain incinerators may not result in a visible emission, excluding condensed water vapor, which causes a reduction in visibility of greater than 20 percent for a period or periods aggregating more than three minutes in any hour. No person may operate an air curtain incinerator, regardless of size, without prior written approval from the department.

AUTHORITY AS 46.03.020(10)(A)
AS 46.03.140
AS 46.03.150

18 AAC 50.050 INDUSTRIAL PROCESSES AND FUEL BURNING

(a) Visible emissions, excluding condensed water vapor, from industrial processes or fuel burning equipment may not result in a reduction of visibility through the exhaust effluent of greater than 20 percent for a period or periods aggregating more than three minutes in any hour.

(b) Particulate matter emitted from industrial processes or fuel burning equipment may not exceed, on the basis of a cubic foot of exhaust gas corrected to standard conditions:

(1) 0.05 grains except as noted in (2) and (3) below;

(2) 0.1 grains for those sources in operation prior to July 1, 1972, and for fuel burning equipment using coal or municipal waste as fuel;

(3) 0.15 grains for fuel burning equipment using wood waste as fuel.

(c) Sulfur compound emission from industrial processes or fuel burning equipment may not exceed 500 ppm expressed as SO_2.

(d) No person shall cause or permit bulk materials to be handled, transported or stored without taking reasonable precautions to prevent particulate matter from becoming airborne.

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140
AS 46.03.150

18 AAC 50.060 PULP MILLS

(a) Air contaminant emission from pulp mills may not exceed, based on 24-hour averages and each ton of pulp produced:

(1) 20 pounds of sulfur oxides from sulfite pulp mills, expressed as SO_2, from all blow pits, washer vents, storage tanks, digester relief and recovery systems;

(2) two pounds of particulate matter from all blow pits, washer vents, storage tanks, digester relief and recovery systems in kraft or sulfite mills;

(3) five ppm of total reduced sulfur, expressed as H_2S on a dry basis, from each kraft pulp mill recovery furnace stack.

(b) Non-condensibles from kraft pulp mill digesters and multiple effect evaporators shall be treated to reduce emissions of total reduced sulfur to a level equal to that which would be obtained by the reduction achieved by thermal oxidation in a lime kiln.

(c) Operators shall maintain and operate continuous emission recording and ambient air monitoring devices as specified by the department. Data acquired shall be available for inspection by, and provided on a routine basis to, the department.

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140
AS 46.03.150

18 AAC 50.070 MOTOR VEHICLE EMISSIONS

(a) Emissions from gasoline-powered motor vehicles may not be visible, excluding condensed water vapor.

(b) Visible emissions from diesel powered motor vehicles, excluding condensed water vapor, may not result in a reduction of visibility of greater than 40 percent through the exhaust effluent.

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140
AS 46.03.150

18 AAC 50.080 CARBON MONOXIDE LIMITATIONS

All motor vehicle traffic, except emergency vehicles, shall be routed around areas where ambient air levels of carbon monoxide reach or are predicted to reach 17 milligrams per cubic meter on an eight hour average after July 1, 1972. This level shall be 10 milligrams per cubic meter after July 1, 1975.

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140
AS 46.03.150

18 AAC 50.090 ICE FOG LIMITATIONS

The department may require any person proposing to build or operate an industrial process, fuel burning equipment or incinerator in areas of potential ice fog. to obtain a permit to operate and to reduce water emissions.

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140
AS 46.03.150

18 AAC 50.100 MARINE VESSELS

Within three miles of the coastline of Alaska, visible emissions from any marine vessel excluding water vapor, may not result in a reduction of visibility through the exhaust effluent of greater than 40 percent for a period or periods aggregating more than three minutes in any one hour.

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140
AS 46.03.150

18 AAC 50.110 AIR POLLUTION PROHIBITED

No person may permit any emission which is injurious to human health or welfare, animal or plant life or property, or would unreasonably interfere with the enjoyment of life or property.

AUTHORTIY: AS 46.03.020(10)(A)
AS 46.03.140
AS 46.03.710

18 AAC 50.120 PERMIT TO OPERATE

(a) A permit to operate is required, if the facility is capable of emitting into the ambient air, regardless of whether air quality control equipment is operating, more than:

(1) 25 tons per year of sulfur dioxide or particulate matter.

(2) 100 tons per year of either nitrogen oxides, or carbon monoxide, or hydrocarbons.

(b) A permit to operate is required for all mercury retorts, regardless of size.

(c) A permit to operate is required for all fuel burning electric generating equipment greater than 250 kilowatts capacity if such equipment is put into operation after July 1, 1972.

(d) No person shall operate or cause the operation of a source requiring a permit without applying for and obtaining a permit from the department. Application for a permit to operate shall be made by the owner or operator on forms provided by the department. All persons operating sources on the effective date of these regulations and requiring a permit shall apply for such permit on or before July 1, 1972.

(e) Submittal of emission data is required when the amount of hydrocarbons, carbon monoxide, nitrogen oxides, sulfur oxides, or particulate matter which can be emitted from a facility into the ambient

air, regardless of whether air quality control equipment is operating, is greater than five tons per year. Data submittal is required every two years, starting on July 1, 1973, on forms provided by the department.

(f) No person may construct or modify a facility requiring a permit to operate until detailed plans and specifications are submitted to the department and approved. These plans and specifications shall include the following information:

(1) two sets of plans and specifications, clearly indicating the layout and the construction which will be undertaken;

(2) two sets of maps or aerial photographs indicating land use and zoning within one mile of the facility. The map or aerial photograph shall be of adequate scale to show all homes, industrial buildings, water courses, road and other applicable details and shall indicate the general topography;

(3) an engineering report outlining the proposed methods of operation, the quantity and source of material to be processed, the proposed use and distribution of the processed material and related process details, and a process flow diagram indicating the points of emission including estimated quantities and types of air contaminants to be emitted;

(4) a description and specifications of all air quality control devices;

(5) an evaluation of the effect on the surrounding ambient air of the emissions from the facility;

(6) plans for emission reduction procedures during an air episode.

(g) Approval to construct a new source may not be granted unless the applicant shows to the satisfaction of the department that:

(1) the new source will not prevent or interfere with the attainment or maintenance of any applicable ambient air quality standard specified in section 20 of this chapter;

(2) the new source will operate without causing a violation of applicable regulations established under AS 46.03.

(h) A compliance schedule is required as part of a permit to operate for facilities emitting air contaminants in excess of the limitations of this chapter. Those facilities in operation prior to July 1, 1972 and requiring a compliance schedule shall be in compliance with requirements of this chapter by July 1, 1975.

(i) A permit to operate may:

(1) not be transferred without the written consent of the department;

(2) not be issued for a period greater than five years after which the permit must be renewed for continued source operation. A permit requiring a compliance schedule must be reviewed and renewed every year of its duration;

(3) not be granted to a person under (h) of this section unless a compliance schedule approved by the department is included;

(4) require that specific emission reduction procedures be taken during an air episode.

(j) Upon notice to any person, such person operating facilities emitting air contaminants judged by the department to be highly toxic shall be required to obtain a permit to operate.

(k) The department may require an applicant for a permit to operate to install, use, and maintain monitoring equipment; to sample emissions in accordance with methods prescribed by the department, at locations, intervals and by procedures as may be specified; to provide source test ports, to provide emission data and information from analyses of any test samples, and to provide periodic reports on process emissions.

(l) If an application for a permit to operate is denied, the department shall notify the applicant in writing of the reasons.

AUTHORITY: AS 46.03.010
AS 46.03.020(10)(A)
AS 46.03.140
AS 46.03.150
AS 46.03.160
AS 46.03.170

18 AAC 50.130 REVOCATION OR SUSPENSION OF PERMIT

A permit to operate may be revoked or suspended if the conditions of the permit or applicable laws or regulations are violated.

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140
AS 46.03.160
AS 46.03.170

18 AAC 50.140 AIR EPISODES

An air episode shall be declared when in the opinion of the commissioner the concentration of air contaminants in the ambient air has reached or is predicted to reach any of the following levels:

(1) Air Alert:

(A) sulfur dioxide 800 micrograms per cubic meter (24 hour average)

(B) particulate matter 3.0 coefficient of haze units or 375 micrograms per cubic meter (24 hour average)

(C) carbon monoxide 17 milligrams per cubic meter (8 hour average)

(2) Air Warning:

(A) sulfur dioxide 1600 micrograms per cubic meter (24 hour average)

(B) particulate matter 5.0 coefficient of haze units, or 625 micrograms per cubic meter (24 hour average)

(C) carbon monoxide 24 milligrams per cubic meter (8 hour average)

(3) Air Emergency:

(A) sulfur dioxide 2,100 micrograms per cubic meter (24 hour average)

(B) particulate matter 7.0 coefficient of haze units, or 875 micrograms per cubic meter (24 hour average)

(C) carbon monoxide 46 milligrams per cubic meter (8 hour average)

The commissioner shall prescribe and publicize curtailment actions when the above levels of air contaminants are, or are about to be, reached.

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.820

18 AAC 50.150 SOURCE TESTING

(a) The department may conduct or have conducted source testing in order to determine compliance with this chapter.

(b) Testing to determine compliance with provisions of this chapter shall be by methods of measurement approved by the department and undertaken at such a point or points as to characterize the actual discharge into the ambient air.

(c) Particulate matter emission requirements specified in this chapter shall be measured by the methods comparable to those outlined in the American Society of Mechanical Engineers Power Test Code PTC 27-1957, entitled "Determining Dust Concentration in the Gas Stream", modified to include a high efficiency filter. A copy of this document is on file in the Lieutenant Governor's Office. Additional copies may be obtained from department offices in Juneau.

(d) Air contaminant emission tests shall be conducted at maximum rated burning or operating capacity of the unit, or such other rate as may be determined by the department to characterize the emissions from the unit.

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140
AS 46.03.150 (b)

18 AAC 50.160 CIRCUMVENTION

(a) The use of air for dilution of emission contaminants without affecting any total decrease in such contaminants shall not be permitted as a method to effect compliance with the requirements of this chapter.

(b) Any facility modified on or after July 1, 1972 shall meet the requirements applicable to new facilities installed on or before July 1, 1972.

(c) The total of the capacities for all process fuel burning or incinerator units in a facility shall be considered as the facility capacity for that type of unit.

(d) Persons owning or operating facilities emitting air contaminants subject to the limitations of this chapter shall be held responsible for insuring that those facilities are in compliance with this chapter. (Eff. 5/26/72, Reg. 42).

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140

(e) The department may require an operator of any air contaminant

source to maintain records and periodically report on the nature and amounts of emissions as may be necessary to determine compliance of the source with the applicable emission or ambient air standards pursuant to this chapter.

(f) The department shall deny to any person the construction or modification of any air contaminant emission source, if the commissioner finds that the construction or operation of the source will result in a violation of the applicable emission standards or will interfere with the attainment or maintenance of the ambient air standards pursuant to this chapter.

AUTHORITY: AS 46.03.020(A)
AS 46.03.140
AS 46.03.150
AS 46.03.160

18 AAC 50.170 AIR QUALITY CONTROL PLAN

The plan, established on July 1, 1972, for implementing and enforcing this chapter, is on file in the Office of the Lieutenant Governor and is incorporated by reference as part of this chapter.

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140

18 AAC 50.180 PENALTIES

A person who violates any provision of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $5,000, or by imprisonment for not more than one year, or by both. Each day of violation constitutes a separate offense.

AUTHORITY: AS 46.03.710
AS 46.03.760

18 AAC 50.190 DEFINITIONS

(1) "air contaminant" means dust, fumes, mist, smoke, fly ash, and other particulate matter, vapor, gas, odorous substances, or any combinations thereof.

(2) "air curtain incinerator" means an incinerator in which large quantities of combustible materials are burned in a rectangular container which is equipped with an overfire air system.

(3) "ambient air" means that portion of the surrcunding atmosphere which may affect persons in the area.

(4) "Commissioner" means Commissioner of the Department of Environmental Conservation.

(5) "Department" means the Department of Environmental Conservation.

(6) "Emission" means release of air contaminants into the environment.

(7) "Facility" means a unit or multiple units built, installed or established to serve a particular purpose.

(8) "Fuel burning equipment" means any combustion device or part thereof capable of emission but excludes mobile internal combustion engines, incinerators, marine vessels, indoor fireplaces, backyard barbecues, and home cooking devices.

(9) "Incinerator" means any equipment, device or contrivance, excluding indoor fireplaces, used for the thermal reduction of garbage or other wastes.

(10) "Opacity" means the characteristic of a substance which renders it partially or wholly impervious to transmittance of light and causes obstruction of an observer's view.

(11) "Open burning" means the burning of any material such that the products of combustion are emitted directly into the ambient air without passing through a stack or flare.

(12) "Particulate matter" means any material, except water, which is, or has been, airborne and exists as a liquid or a solid at standard conditions.

(13) "Ppm" means parts per million by volume.

(14) "Person" means any individual, public or private corporation, political subdivision, government agency, municipality, industry, copartnership, association, firm, trust, estate, or any other entity whatsoever.

(15) "Putrescible garbage" means material capable of being decomposed with sufficient rapidity as to cause nuisance or obnoxious odors.

(16) "Reduction of visibility" means the obscuration of an observer's vision, as determined by the method of observation described in the U.S. Bureau of Mines Information Circular No. 8333, dated May 1967, Department of the Interior, and modified to account for equivalent opacity. This document is on file in the Lieutenant Governor's Office. Additional copies of this document may be obtained from the department office in Juneau.

(17) "Source" means anything which may emit air contaminants.

(18) "Stack" means any chimney or conduit through which air or air contaminants are emitted into the environment.

(19) "Standard conditions" means a dry gas at a temperature of 70 degrees Fahrenheit and a reference pressure of 14.7 pounds per square inch.

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140

SUMMARY OF THE COOK INLET AIR RESOURCES

Management District's Regulation I

The Regulation is comprised of five articles as follows:

Article I

Consists of definitions of terms found in the Regulation.

Article III

It is the enabling legislation passed by each of the three Borough assemblies. It establishes the Air Pollution Commission of the District and delegates certain authorities to the Commission. The Commission has the authority to establish ambient air quality standards, emission standards, adopt rules and regulations, hold public hearings, issue and enforce orders necessary to effectuate its regulations, require access to records, contract with other agencies, receive funds or property, and take emergency actions to abate high levels of air pollutant concentrations.

Article V

Establishes a requirement for the registration of air contaminant sources. The article also lists types of equipment which are exempted from registration. Sources exempted are those which would only add water vapor to the atmosphere or would add contaminants of a concentration, particle size, or amount which could not be considered detrimental to the area's air quality.

Article VII

Establishes the requirement for a Notice of Construction and Application for Approval before a new air contaminant source is constructed or before a new source is altered. The application must include sufficient information to enable the District staff to evaluate the emissions from the source and their degree of compliance with District emission regulations. Construction or alteration may not begin until after the application is approved. The article also establishes time limits for actions on notices and methods for appealing denials.

Article IX

Establishes definite emission regulations dealing with particulate material, certain gaseous pollutants, odors, and open burning. Particulate material emissions are dealt with using opacity, process weight, and grain loading standards.

Sources in existence prior to the effective date of the Regulation, January 4, 1971, must not exceed Ringelmann #2 or 40% opacity for more than three minutes in any one hour. All sources installed after January 4, 1971, and all sources in existence after January 4, 1976, must not exceed Ringelmann #1 or 30% opacity for more than three minutes in any one hour.

Sources in existence prior to January 4, 1971, are required to comply with the process weight curve allowing a maximum particulate emission of 150 lbs./hr. at a process weight of 10 million lbs./hr. Sources installed after January 4, 1971, and all sources in existence after January 4, 1976, must comply with the process weight curve allowing a maximum particulate emission of 40 lbs./hr. for a process weight of 60 thousand lbs. or more per hour.

All sources of particulate matter in the District must also comply with a grain loading standard of 0.3 grains of particulate material per standard foot of exhaust gas. Combustion processes must calculate their emissions to twelve percent of carbon dioxide at standard conditions.

Sulfur dioxide is the only gaseous pollutant controlled and may not exceed 500 parts of SO_2 per million parts of exhaust gas.

Odor bearing gases or sources of odors must be controlled to keep odor emissions to a reasonable minimum.

Outdoor fires are regulated by areas. In the Kenai Peninsula and Matanuska-Susitna Boroughs only the burning of dumps and industrial waste are prohibited. In the Anchorage Borough all fires except land clearing fires (slash burning) and fires for social, pleasure, ceremonial, and safety purposes are allowed. Within the urban area of Anchorage, slash burning is also prohibited.

TRI-BOROUGH AIR RESOURCES MANAGEMENT DISTRICT

ARTICLE I

Section 1.01 SHORT TITLE

This regulation may be known and cited as regulation 1 of the Tri-Borough Air Resources Management District.

Section 1.03 GENERAL DEFINITIONS

(a) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof.

(b) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and duration that tend to be injurious to human health or welfare, animal or plant life, or property, or which would unreasonably interfere with the enjoyment of life and property.

(c) "Alteration" means any addition to or enlargement or replacement of, or any major modification or change of the design, capacity, process or arrangement, or any increase in the connected loading of, equipment or control apparatus which will significantly increase or adversely affect the kind or amount of air contaminant emitted.

(d) "Atmosphere" or "Ambient air" means the surrounding outside air.

(e) "Commission" means the Air Pollution Control Commission of the Tri-Borough Air Resources Management District.

(f) "Director" means the Director of the Air Pollution Control Commission or his authorized representative.

(g) "District" means the Tri-Borough Air Resources Management District, including the Greater Anchorage Area Borough, the Kenai Peninsula Borough, and the Matanuska Susitna Borough.

(h) "Emission" means a release into the outdoor atmosphere of air contaminants.

(i) "Equipment" means any stationary or portable device or any part thereof capable of causing the emission of any air contaminant into the atmosphere.

(j) "Equipment used in a Manufacturing Process" means equipment, as defined in Subsection 1.03 (i) in which some air contaminant emitted is caused by a manufacturing process.

(k) "Excess air" means the quantity of air which exceeds the theoretical quantity of air required for complete combustion.

(l) "Fire Chief" means a Borough Fire Marshall, City Fire Chief, Chief of each Borough Fire Protection District or his authorized representative.

(m) "Incinerator" means a furnace for the destruction of waste.

(n) "Installation" means the placement, assemblage or construction of equipment or control apparatus at the premises where the equipment or control apparatus will be used.

(o) "Outdoor fire" means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the atmosphere without passing through an approved stack, duct, vent, or chimney.

(p) "Owner" includes the person who leases, supervises or operates the equipment or control apparatus.

(q) "Particulate matter" means any liquid other than water, or any solid which is so finely divided as to be capable of becoming windblown or being suspended into air or other gas vapor.

(r) "Process weight" means total weight of the materials consumed or charged in any specific process including solid fuels charged, but excluding liquid and gaseous fuels, and combustion air.

(s) "Process weight per hour" means process weight divided by the number of hours from the beginning of any specific process to the completion of the process, excluding any time during which the equipment used in the process is idle.

(t) "Person" means and includes any individual, firm, public or private corporation, association, partnership, political subdivision, municipality or governmental agency.

(u) "Refuse burning equipment" means equipment as defined in Subsection 1.03 (i), designed to burn waste material, scrap, or combustible remains.

(v) "Regulation" means any regulation or any subsequently adopted addition or amendments thereto of the Tri-Borough Air Resources Management District.

(w) "Standard cubic foot of gas" means that amount of the gas which would occupy a cube having dimensions of one foot on each side, if the gas were free of water vapor and at a pressure of 14.7 P.S.I.A. and a temperature of 60 degrees F.

(x) "Waste (Industrial)" is any material resulting from a production or manufacturing operation having no economic value to the source producing it.

AIR POLLUTION CONTROL COMMISSION

ARTICLE III

Section 3.01 AIR POLLUTION CONTROL COMMISSION

There is created the Air Pollution Control Commission of the Tri-Borough Air Resources Management District, hereinafter known as the District, the members of which shall be two members elected from each of the Borough Assemblies of the Matanuska Susitna, Kenai and Greater Anchorage Area Boroughs. The Commission shall appoint a director to act as an advisor, as Commission secretary, and to perform such other functions as provided in this chapter and as the Commission shall direct. The Commission shall select its own Chairman from among the voting members.

Section 3.03 TERM

The term of the members shall be for the duration of their service on the separate Borough Assemblies. When a vacancy occurs, the Borough Assembly, of which the vacating Commissioner was a member, shall elect a new member to the Commission. Members of the Commission shall receive a salary of $35 per meeting day and are entitled to per diem in the amount of $35 and travel expenses while attending Commission business.

Section 3.05 MEETINGS

The Commission shall hold at least six regular meetings each year and additional meetings which the Chairman considers desirable, at a place and time to be fixed by the Chairman. Special meetings shall be called by the Chairman upon the written request of four members. Four voting members shall constitute a quorum. The Commission may receive administrative services from the Director.

Section 3.07 POWERS

A. The Commission shall have power to:

1. Establish ambient air quality standards for the District after public hearing.

2. Establish standards for or otherwise control emissions after public hearing.

3. Adopt such rules and regulations as may be necessary to achieve the objectives of the District after public hearing.

4. Hold such public hearings as it deems necessary for the administration and enforcement of its regulations and the State Law and to compel the attendance of witnesses and production of evidence. In holding such hearings, the Commission shall

establish such rules or procedures as it finds reasonable and necessary.

5. Issue such orders as may be necessary to effectuate the provisions of this article and enforce them by appropriate administrative judicial proceedings.

6. Require access to records relating to emissions which cause or contribute to air contamination, but in strict conformity with Section 3.21 of this article.

7. Sue or be sued in the name of the District in all actions and proceedings in courts of competent jurisdiction.

8. Establish and maintain such offices as the Commission may authorize.

9. Contract with one or more Boroughs (Municipalities), the State, the Federal Government,or any agency of the State for the services of competent personnel.

10. Receive by grant, purchase, gift, lease, or other means, such real and personal property as may be necessary to carry on the purpose of this article.

    This shall include the right to dispose of such property whenever in the judgement of the Commission, such property is no longer needed by the District.

B. The Director shall have the power to:

1. Enforce the provisions of this article and all of the orders, regulations, and rules adopted by Commission pursuant to this article.

2. Enforce all variances and standards approved by the Commission.

3. Perform such other duties as may be assigned by the Commission of required to administer this article.

4. Serve as a non-voting member and Secretary of the Commission.

Section 3.09 CLASSIFICATION, REPORTING, AND REGISTRATION

A. The Commission, by rules or regulations, may classify and require the registration of air contaminant sources, which in its judgement may cause or contribute to air pollution, according to levels and types of emissions and other characteristics which relate to air pollution, and may require reporting for the classifications. Classifications made under this subsection may be for application to the District as a whole or to a designated area of the District and shall be made

with special reference to effects on health, economic, and social factors and physical effects on property.

B. A person operating or responsible for the operation of air contaminant sources of a class for which the rules and regulations of the Commission require registration shall make reports containing the information required by the Commission or the Director concerning location, size and height of contaminant outlets, processes employed, fuels used and nature and time periods or duration of emissions; and other information relevant to air pollution and available or reasonably capable of being assembled.

Section 3.11 ADDITIONAL CONTAMINANT CONTROL MEASURES

A. The Commission may require that notice be given to it before the undertaking of the construction, installation, or establishment of particular types or classes of new air contaminant sources specified in its rules and regulations. Within fifteen (15) days of its receipt of the notice, the Commission may require, as a condition precedent to this undertaking, the submission of plans and other information it considers necessary in order to determine whether the proposed undertaking will be in accord with applicable rules and regulations in force under this article. If within thirty (30) days of receipt of these plans and information, the Commission determines that the porposed undertaking will not be in accord with the requirements of this article and applicable rules and regulations, it shall issue an order prohibiting the undertaking. Failure to issue the order within the time prescribed shall be considered and approval of the plans and information and the undertaking may proceed in accordance with them.

B. A person subject to an order or prohibition as prescribed in (A) of this section, upon written request in accordance with rules of the Commission, is entitled to a hearing before the Commission on the order. Following the hearing the order may be affirmed, modified, or withdrawn.

C. For the purpose of this article, addition to or enlargement or replacement of an air contaminant source, or a major alteration of one, shall be construed as an undertaking for the construction, installation or establishment of a new air contaminant source.

D. Any features, machines, or devices constituting parts of, or called for by, plans or other information submitted under (A) of this section or which may affect emissions classified under Section 3.09, shall be maintained in good working order.

E. Nothing in this section may be construed to authorize the Commission to require the use of machinery, devices, or equipment from a particular supplier or produced by a particular manufacturer if the required performance standards may be met by machinery, devices or equipment available from other sources.

F. The absence of or Commission failure to issue a rule, regulation or order under this section, does not relieve a person from compliance with emission control requirements or other provisions of law.

G. The Commission may require the payment of a reasonable fee for the review of plans and information required to be submitted.

Section 3.13 INSPECTION

For the purpose of ascertaining the state of compliance with this article and appropriate rules and regulations, a duly authorized officer, employee or representative of the Commission may, at a reasonable time and upon presentation of a proper search warrant, if necessary, enter and inspect the property and premises where an air contaminant source is located or is being constructed. No person may refuse entry or access to an authorized representative of the Commission who requests entry for purposes of inspection and who presents appropriate credentials; nor may a person interfere with the inspection. The director shall give the owner or operator of the premises a report setting out all facts found which relate to compliance status.

Section 3.15 EMISSION CONTROL REQUIREMENTS

The Commission may establish emission control requirements which in its judgement are necessary to prevent, abate, or control air pollution. These requirements may be for the District as a whole or may vary from area to area as may be appropriate to facilitate accomplishment of the purposes of this article and in order to take account of varying local conditions.

Section 3.17 EMERGENCY PROCEDURE

A. If the Director finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, he shall, with concurrence of the Borough Chairman of the Borough in which the emergency arises, order persons causing or contributing to such air pollution to reduce or discontinue immediately the emission of such air contaminants. The order shall fix a place and time, not more than twenty-four (24) hours later for a hearing before the Commission. Within twenty-four (24) hours after commencement of the hearing and without adjournment of it, the Commission shall affirm, modify or set aside the order of the Director.

B. In the absence of a generalized condition of air pollution of the type referred to in (A) of this section, but if the Director finds that emissions from the operation of one or more contaminant source is causing imminent danger to human health or safety, he may order the person responsible for the operation in question to reduce or discontinue emissions immediately, without regard to Section 3.17 (A) of this article. If an order is issued, the hearing requirements of (A) of this section apply.

Section 3.19 VARIANCES

A. A person who owns or is in control of a plant, building, structure, establishment, process, or equipment, may apply to the Commission for a variance from rules or regulations. The Commission may grant the variance, but only after public hearing following due notice, if it finds that:

1. The emissions proposed to occur do not endanger human health or safety; and

2. Compliance with the rules or regulations from which the variance is sought would product serious hardship without equal or greater benefits to the public.

B. No variance may be granted under this section until the Commission has considered the relative interests of the applicant, other owners or property likely to be affected by the emissions, and the general public.

C. A variance or its removal, granted under (A) of this section, shall be for periods and under conditions consistent with the reasons for it and within the following limitations:

1. If the variance is granted on the grounds that there is no practicable means known or available for the adequate prevention, abatement or control of the air pollution involved, it shall apply only until the necessary means for prevention, abatement or control become known and available, subject to the taking of substitute or alternate measures that the Commission may prescribe.

2. If the variance is granted on the grounds that compliance with the particular requirement will necessitate the taking of measures which because of their complexity or cost will involve considerable hardship, it shall be for a period of time which in the opinion of the Commission is necessary and reasonable. A variance granted on this ground shall contain a timetable.

3. If the variance is granted on the grounds that it is justified to relieve or prevent hardship of any kind, including those provided in (C) (1) and (2) of this section, it shall be for not more than one year.

D. A variance granted under this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the Commission on account of the variance, no renewal of it shall be granted unless, after public hearing on the complaint following the notice, the Commission finds that renewal is justified. No renewal may be granted except upon application for it. This application shall be

made at least sixty (60) days before the expiration of the variance. Immediately upon receipt of an application for renewal, the Commission shall give public notice of it.

E. A variance or renewal is not a right of the applicant but shall be in the discretion of the Commission. However, a person adversely affected by a variance or renewal granted by the Commission may obtain judicial review of the Commission order. Judicial review of the denial of a variance or renewal may be had only on the grounds that the denial was arbitrary or capricious.

F. No variance or renewal granted under this section may be construed to prevent or limit the emergency provisions of Section 3.17 of this article.

Section 3.21 CONFIDENTIALITY OF RECORDS

Unless the owner or operator expressly agrees to their publication or availability to the general public, records and information in the possession of the Commission concerning a contaminant source, which records and information relate to production or sales figures or to processes or production unique to the owner or operator and the publication of would tend to adversely affect his competitive position, as certified by him, shall be only for confidential use of the Commission on an incamera basis in the administration of this article. The Commission may, nevertheless, use these records and information in compiling analyses of summaries relating to the general condition of the outdoor atmosphere as long as the owner or operator is not identified and no information specified in the preceding sentence is revealed.

Section 3.23 LIMITATIONS

This article does not:

1. Grant to the Commission jurisdiction or authority with respect to air contamination existing solely within commercial and industrial plants, work or shops:

2. Affect the relations between employers and employees with respect to or arising out of a condition of air contaminants or air pollution.

3. Supersede or limit the applicability of a law or ordinance relating to sanitation, industrial health or safety.

4. Preclude the right of judicial review of decisions of the Commission.

Section 3.25 ENFORCEMENT

A. When the Director has reason to believe that a violation of this article or rule or regulation issued under this article has occurred, the Director may serve written notice upon the suspected violator. The notice shall specify the provision believed to be violated and the facts believed to constitute the violation and may include an order that necessary corrective action be taken within a reasonable time. This order shall become final unless within fifteen (15) days after the notice and order are served the person named requests in writing a hearing before the Commission, which hearing shall be held within a reasonable time. In lieu of an order, the Director may require the suspected violator to appear before the Commission for a hearing at a time and place specified in the notice and answer the charges.

B. If, after a hearing held under (A) of this section, the Commission finds that a violation has occurred, it shall affirm or modify the order previously issued or issue an appropriate order for taking corrective action. If the Commission finds that no violation has occurred, it shall rescind the previous order, if any. An order issued as part of a notice or after a hearing may prescribe the date by which the violation shall cease and may prescribe timetables for necessary action in preventing, abating or controlling emissions.

C. The Commission or the Director may make efforts to obtain voluntary compliance through warning, conference or other appropriate means.

D. In connection with a hearing held under this section, the Commission shall have power and upon application by a party to the hearing it shall have the duty to compel the attendance of witnesses and the production of evidence on behalf of all parties.

Section 3.27 PENALTIES

A. In addition to procedures provided in Section 3.25 of this article a person who violates a provision of this article or a rule or regulation in force under it, upon conviction, is punishable by a fine not to exceed $300 and/or 30 days imprisonment. Each day of violation shall constitute a separate offense.

B. Conviction as specified in (A) of this section shall not be a bar to enforcement of this article and the rules, regulations and orders issued under it. The Commission shall have power to institute and maintain in the name of the three Boroughs all enforcement proceedings.

C. This article does not affect the right of a person to bring an action for damage or other relief because of an injury caused by air pollution.

REGISTRATION OF AIR POLLUTION SOURCES

ARTICLE V

Section 5.01 REGISTRATION REQUIRED

All air contaminant sources within the jurisdiction of the District shall be registered with the District within 90 days of the effective date of this regulation except any of the air contaminant sources which are listed in Exhibit "A", which is attached hereto and made part hereof, as now contained or as hereafter amended.

Section 5.03 GENERAL REQUIREMENTS FOR REGISTRATION

A. Registration of an installation shall be made by the owner or lessee of the source, or his agent, on forms furnished by the District. The owner of the source shall be responsible for registration and the correctness of the information submitted.

B. A separate registration shall be required for each source of contaminant, provided that, an owner has the option to register a process, with a detailed inventory of contaminant sources and emissions related to said process; provided further that an owner need not make a separate registration for identical units of equipment or control apparatus installed, altered or operated in an identical manner on the same premises.

C. Each registration shall be signed by the owner or lessee, or the agent for such owner or lessee.

16. Vents used exclusively for:

    a. Sanitary or storm drainage systems; or

    b. Safety valves; or

    c. Storage tanks.

17. Washing or drying equipment used for products fabricated from metal or glass, if no volatile organic material is used in the process.

18. Water cooling towers and cooling ponds, except for barometric condensers.

19. Welding, brazing, or soldering equipment.

20. Marine installation not within the District for longer than 60 days per year.

21. Asphalt laying equipment.

22. Incidental fires for the disposal of trees and brush accumulated during land clearing operations.

NOTICES OF CONSTRUCTION AND ORDERS OF APPROVAL

ARTICLE VII

(3.01) Section 7.01 NOTICE OF CONSTRUCTION - WHEN REQUIRED

A. No person shall construct, install or establish a new air contaminant source, except those sources excluded in Exhibit "A" of Section 5.01 of this Regulation, without first filing with the District a "Notice of Construction and Application for Approval" on forms prepared and furnished by the District and obtaining said approval; provided that, for the purposes of this Article alterations shall be construed as construction or installation or establishment of a new contaminant source.

B. A Notice of Construction and Application for Approval shall not be required to commence on alteration of equipment or control apparatus in the event of breakdown of if delaying the alteration may endanger life or have other serious consequences. The District shall be notified in writing of the alteration on the first working day after the alteration is commenced and a Notice of Construction and Application for Approval shall be filed within fourteen (14) days after the day the alteration is commenced.

C. A separate Notice of Construction and Application for Approval shall be submitted for each unit of equipment or control apparatus, unless identical units of equipment or control apparatus are to be installed, constructed or established in an identical manner on the option to give notice and apply for approval of a process with a detailed inventory of contaminant sources and emissions related to said process.

(3.01) Section 7.03 INFORMATION REQUIRED FOR NOTICE OF CONSTRUCTION AND APPLICATION FOR APPROVAL

A. Within fifteen (15) days of its receipt of a Notice of Construction and Application for Approval for the construction, installation, or establishment of a new air contaminant source, as above described, the Director or the Commission may require that two sets of plans be submitted which show and describe in detail the following:

1. The equipment or control apparatus covered by the Notice and Application.

2. Any equipment, connected, attached to, or serving or served by the unit of equipment or control apparatus covered by the Notice and Application.

3. A plat plan, including the location and height of buildings within the area which may be adversely affected by the equipment to be installed.

4. The proposed means for the prevention or control of the emissions of air contaminants.

5. Any additional information, evidence or documentation required by the Director or the Commission to show that the proposed equipment or control apparatus will meet the emission standards.

6. Each Notice of Construction and Application for Approval shall be signed by the applicant or owner, who may be required to submit evidence of his authority.

Section 7.05 ISSUANCE OF APPROVAL OR ORDER

A. Within thirty (30) days of receipt of Notice of Construction and Application for Approval, or the plans described in Subsection 7.03 (A), the Director or the Commission shall issue an Approval of Construction, or an order that the construction, installation or establishment of a new air contaminant source will not be in accord with the applicable emission standards as are in effect at the time of filing the Notice of Construction and Application for Approval.

B. No approval will be issued unless the information supplied as required by Subsection 7.03 (A) evidence to the Commission that:

1. The equipment is designed and will be installed to operate without causing a violation of the emission standards.

2. The equipment incorporates advances in the art of air pollution control developed for the kind and amount of air contaminant emitted by the equipment.

3. Equipment having a stack or duct three feet or more in diameter will be provided with:

a. Sampling ports of a size, number and location as the Director or the Commission may require; and

b. Safe access to each port; and

c. Such other reasonable sampling and testing facilities as the Director or the Commission may require.

4. Fuel burning equipment and refuse burning equipment will achieve optimum combustion of the fuel or refuse material to be burned.

5. All parts of the equipment can be readily cleaned or repaired.

C. If the Director or the Commission determines that the construction, installation, or establishment of a new air contaminant source will not meet the emission standards, the Director of the Commission shall, within thirty(30) days of receipt of the Notice and Application or

the plans described in Subsection 7.03 (A), issue an order for the prevention of the construction, installation or establishment of the air contaminant source or sources, and:

1. The order shall be in writing;

2. The order shall set forth objections in detail with references to the emission standards that will not be met by the proposed construction, installation or establishment;

3. The order shall be signed by the Director or his authorized representative.

D. Any order issued pursuant to this section, shall become final unless, no later than fifteen (15) days after the order is served the owner or applicant petitions in writing for a reconsideration of the order with reasons for the reconsideration.

1. The Director or the Commission shall consider the petition and shall within thirty (30) days give written notice of approval or disapproval of the petition setting forth the reasons for disapproval.

2. If the petition of the owner or applicant be disapproved, the owner or applicant may petition the Commission for a hearing within fifteen (15) days of receipt of the notice of disapproval.

E. Failure to issue such an order or approval within the time prescribed herein shall be deemed a determination that the construction, installation or establishment may proceed, provided that it is in accordance with the plans, specifications or other information, if any, required to be submitted. Such failure, however, shall not relieve any person from his obligation to comply with any emission control requirement, or with any other provision of law.

Section 7.07 NOTICE OF COMPLETION - ORDER OF VIOLATION

A. The owner or applicant shall notify the Director or the Commission of the completion of construction, installation or establishment and the date upon which operation will commence. The Director or the Commission shall, within thirty (30) days of receipt of notice of completion, inspect the construction, installation or establishment, and the Director or the Commission may issue an order of violation if he finds that the construction, installation or establishment is not in accord with the plans, specifications or other information submitted to the District, or will be in violation of the emission standards in existence at the date the order was issued.

B. Upon receipt of an Order of Violation, the owner may appeal said order in accordance with the procedures in Section 3.25 A of this regulation.

C. The issuance of approval as provided by this Article and Section 7.05, shall not relieve the owner of the obligation to comply with the emission standards as adopted by the Commission or prevent the Director or Commission from issuing such orders as provided by Section 3.25 A of this regulation.

Section 7.09 CONDITIONAL APPROVAL

The owner or applicant may request a conditional approval for an experimental installation, construction or establishment and said approval may be issued by the Director or the Commission if it appears to the Director or the Commission from all submitted information, that the installation, construction or establishment when completed, will satisfy the District's emission standards.

EMISSION STANDARDS

ARTICLE IX

Section 9.01 EMISSION OF AIR CONTAMINANT: VISUAL STANDARD

A. It shall be unlawful for any person to cause or allow the emission of any air contaminant for a period or periods aggregating more than three (3) minutes in any one hour, which is:

   1. Darker in shade than that designated as No. 2 (40% density) on the Ringelmann Chart, as published by the United States Bureau of Mines; or

   2. Of such opacity as to obscure an observer's view to a degree greater than does smoke described in Section 9.01 (A)(1).

   3. Five (5) years after the effective date of the ordinance, all sources in the District shall comply with Section 9.01 B.

B. It shall be unlawful for any person to cause or allow the emission of any air contaminant from any equipment installed subsequent to the effective date of this regulation for a period or periods aggregating more than three (3) minutes in any one hours, which is:

   1. Darker in shade than designated as No. 1 (20% density) on the Ringelmann Chart, as published by the United States Bureau of Mines; or

   2. Of such opacity as to obscure an observer to a degree greater than does smoke described in Section 9.01 (B)(1).

C. The density or opacity of an air contaminant shall be measured at the point of emission, except when the point of emission cannot be readily observed, it may be measured at an observable point of the plume nearest the point of emission.

D. This section shall not apply when the presence of uncombined water is the only reason for failure of the emission to meet the requirements of this section.

E. This section shall not apply to motor vehicle or aircraft emissions.

Section 9.03 PARTICULATE MATTER

A. It shall be unlawful for any person to cause or allow the discharge of particulate matter which becomes deposited upon the real property of others, except as follows:

   1. When emissions are in compliance with Section 9.01.

2. Temporarily due to breakdown of equipment, provided that repairs are promptly made.

3. During the time for compliance with the regulation fixed by the Director or the Commission.

Section 9.05 EMISSION OF PARTICULATE MATTER (GRAIN LOADING)

Except as otherwise provided in Section 9.07 and Section 9.09, a person shall not discharge into the atmosphere from any source, particulate matter in excess of 0.3 grain per standard cubic foot of exhaust gas.

Section 9.07 EMISSION OF PARTICULATE MATTER (PROCESS WEIGHT STANDARD)

A. A person shall not cause or allow the emission of particulate matter from any source whatsoever in excess of the amount shown in Table 2.

B. A person shall not cause or allow the emission of particulate matter from any source installed subsequent to the effective date of this regulation in excess of the amount of Table 1.

C. Five (5) years after the effective date of the ordinance, all sources in the District shall comply with Section 9.07 B.

Section 9.09 SPECIFIC CONTAMINANTS

A person shall not discharge into the atmosphere from any single source of emission whatsoever any one or more of the following contaminants, in any state or combination thereof, exceeding in concentration at the point of discharge:

A. Sulfur Compounds calculated as sulfur dioxide (SO_2) above 500 parts SO_2 per million parts of exhaust gas.

B. Combustion Contaminants: 0.3 grain per cubic foot of gas calculated to 12 percent of carbon dioxide (CO_2) at standard conditions. In measuring the combustion contaminants from incinerators used to dispose of combustible refuse by burning, the carbon dioxide (CO_2) produced by combustion of any liquid or gaseous fuel shall be excluded from the calculation to 12 percent of carbon dioxide (CO_2).

TABLE I

PROCESS WEIGHT (lb./hr.)	MAXIMUM ALLOWABLE PARTICULATE MATTER (lb./hr.)
100	0.6
300	1.2
500	1.8
700	2.2
1000	2.8
2000	4.1
3000	5.4
4000	6.5
5000	7.6
6000	8.6
7000	9.5
8000	10.4
9000	11.2
10,000	12.0
15,000	15.0
20,000	19.2
30,000	25.2
40,000	30.5
50,000	36.0
60,000 or more	40.0

TABLE 2

PROCESS WEIGHT (lb./hr.)	MAXIMUM ALLOWABLE PARTICULATE EMISSION (lb./hr.)
100	0.6
300	1.2
500	1.8
700	2.2
1,000	2.8
2,000	4.1
3,000	5.4
4,000	6.5
5,000	7.6
6,000	8.6
7,000	9.5
8,000	10.4
9,000	11.2
10,000	12.0
15,000	15.8
20,000	19.2
30,000	25.2
40,000	30.5
50,000	36.0
60,000	40.0
80,000	48.0
100,000	55.0
140,000	65.0

TABLE 2 (Cont.)

PROCESS WEIGHT (lb./hr.)	MAXIMUM ALLOWABLE PARTICULATE EMISSION (lb./hr.)
180,000	73.0
220,000	78.0
260,000	83.0
300,000	85.0
400,000	92.0
800,000	109.0
1,000,000	114.0
2,000,000	127.0
4,000,000	138.0
6,000,000	143.0
8,000,000	147.0
10,000,000	150.0

Section 9.11 EMISSION OF AIR CONTAMINANT OR WATER VAPOR: DETRIMENT TO PERSON OR PROPERTY

A. It shall be unlawful for any person to cause or permit the emission of an air contaminant or water vapor including an air contaminant whose emission is not otherwise prohibited by this regulation, if the air contaminant or water vapor causes detriment to the health, safety, or welfare of any person, or causes damage to property or business.

B. Nothing in this regulation shall be construed to impair any cause of action or legal remedy therefore of any person, or the public for injury or damages arising from the emission of any air contaminant in such place, manner or concentration as to constitute air pollution or a common law nuisance.

Section 9.13 ODOR AND NUISANCE CONTROL MEASURES

A. Effective control apparatus and measures shall be installed and operated to reduce odor-bearing gases or particulate matter emitted into the atmosphere to a reasonable minimum.

B. The Commission may establish reasonable requirements that the building or equipment be closed and ventilated in such a way that all the air, gases, and particulate matter are effectively treated for removal or destruction of odorous matter or other air contaminants before emission to the atmosphere.

C. Odors caused by farm animals shall not be covered by these regulations.

Section 9.15 EMISSION OF AIR CONTAMINANT: CONCEALMENT AND MASKING RESTRICTED

A. It shall be unlawful for any person to willfully cause or permit the installation or use of any device or use of any means which, without resulting in a reduction in the total amount of air contaminant emitted, conceals an emission of air contaminant which would otherwise violate these regulations.

B. It shall be unlawful for any person to cause or permit the installation or use of any device or use of any means designed to mask the emission of an air contaminant which causes detriment to health, safety, or welfare of any person.

Section 9.17 PREVENTING PARTICULATE MATERIAL FROM BECOMING AIRBORNE

A. It shall be unlawful for any person to cause or permit particulate matter to be handled, transported or stored without taking reasonable precautions to prevent the particulate matter from becoming airborne.

B. Within the boundaries of the Greater Anchorage Area Borough:

1 It shall be unlawful for any person to cause or permit a building or its appurtenances or a road to be construed, altered repaired, or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne.

2. It shall be unlawful for any person to cause or permit untreated open areas including but not limited to roads, parking lots or construction sites located within a private or public lot or roadway, to be maintained without taking reasonable precautions to prevent particulate matter from becoming airborne.

Section 9.19 REPORT OF BREAKDOWN

A. Emissions exceeding any of the limits established by this regulation as a direct result of unavoidable upset conditions or unavoidable and unforseeable breakdown of equipment or control apparatus shall not be deemed in violation provided the following requirements are met:

1. The upset or breakdown is reported to the Director or the Commission within twenty-four (24) hours.

2. The person responsible shall upon the request of the Director or the Commission submit a full report including a time table for the restoration of control, the known causes, and the preventative measures to be taken to minimize or eliminate a reoccurrence.

3. The Director or the Commission shall review the report and determine the adequacy of measures taken to control the emissions.

Section 9.21 OUTDOOR FIRES

A. Within the boundaries of the Matanuska-Susitna Borough and the Kenai Peninsula Borough:

1. It shall be unlawful for any person to cause or allow a fire for the burning of dumps or sanitary landfills or the burning of industrial waste material which does not comply with the emission control requirements of this ordinance.

2. All other outdoor fires shall be exempted from the regulations of the Commission.

B. Within the boundaries of the Greater Anchorage Area Borough it shall be unlawful for any person to cause or allow any outdoor fire except the following:

1. Fires for pleasure, religious, ceremonial, cooking, or like social purposes.

2. Fires from flares, torches, waste gas burners, incense burner and insect pots.

3. A fire authorized by the fire chief for the disposal of dangerous materials, provided no alternate means of disposal is reasonably available.

4. A fire authorized by the fire chief for instruction in the method of fighting fires or testing of fire resistive materials and fire.

5. A fire for the disposal of trees and brush accumulated during land clearing provided that:

   a. The fire shall only be allowed in the non-urban areas of the Greater Anchorage Area Borough as defined by the Borough Planning Office.

   b. The person responsible for such fire shall obtain a proper permit for such fire and shall comply with all the laws and regulations of the Commission, the Fire Chief, and all other governmental agencies regarding such fires.

6. A fire for the disposal of household refuse in areas of the Greater Anchorage Area Borough where municipal or Public Service Commission sanctioned refuse collection service is not available.

C. It shall be prima facie evidence that the person who owns or controls property on which an outdoor fire occurs has caused or allowed said outdoor fire.

Section 9.23 SEPARABILITY

If a provision of this regulation is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality or validity of every other provision of this regulation shall not be affected thereby.

Section 9.25 SCHEDULE FOR COMPLIANCE

All facilities in existence on or before the effective date of this regulation and not in compliance with the regulation, shall submit in writing to the Director or the Commission, a schedule for compliance with the regulation. The schedule shall include such information as the Director or the Commission shall require to determine whether or not compliance will be achieved in a reasonable time. If accepted by the Director or the Commission, it shall be the official compliance schedule for the facility.

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CHAPTER 5 - AIR POLLUTION CONTROL

Section 45.05.010 TITLE

This chapter shall be known as the Fairbanks North Star Borough Air Pollution Control Ordinance.

Section 45.05.020 PURPOSE

The declared purpose of this chapter is to preserve and maintain the purity of the air to a degree that will protect human health and safety, prevent injury to plant and animal life and property, safeguard the quality of the environment, maintain safe driving and flying visibility, and preserve the quality of life of the inhabitants of the Fairbanks North Star Borough.

Section 45.05.030 DEFINITIONS

Unless the context requires otherwise, in this chapter:

(a) "air contaminant" means any particulate matter or any vapor or odorous substance or any gas or combination thereof, except that the non-radioactive nucleides of oxygen, nitrogen or the noble gases shall not constitute an air contaminant, nor shall concentrations of water vapor and carbon dioxide less than equal to the concentration in the ambient atmosphere constitute an air contaminant;

(b) "air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in such quantities, characteristics, or duration as to be injurious to human health or welfare, or animal or plant life or health of property, or would interfere with the enjoyment of life or property;

(c) "assembly" means Fairbanks North Star Borough Assembly;

(d) "borough" means Fairbanks North Star Borough;

(e) "commission" means Fairbanks North Star Borough Pollution Control Commission;

(f) "emission" means a release into the outdoor atmosphere of air contaminants;

(g) "garbage" means discarded animal or vegetable matter from a kitchen;

(h) "officer" means Pollution Control Officer of the Fairbanks North Star Borough;

(i) "open burning' means any combustion of material not completely enclosed within containing walls on all sides except for intake or charging ports and an exhaust port or flue (For the purposes of this chapter, use of a barrel with one end removed (burn barrel) for incineration constitutes "open burning". Use of a barrel stove, Franklin stove or Yukon stove does not constitute open burning);

(j) "person" means any individual, partnership, co-partnership, firm, company, public or private corporation, association, trust, estate, or any agency or board, department or bureau of the borough or the cities contained therein, or any other legal entity;

(k) "Ringelmann Chart" means a chart published by the United States Bureau of Mines used to measure the density or opacity of visible emissions of air contaminants;

(l) "temperature inversion" means an atmospheric condition in which the air temperature increases with an increase in altitude; and

(m) "untreated wood" means wood that has been modified from its natural condition only by cutting, breaking, drying or absorption of moisture (Wood or wood fiber that has been painted or artificially impregnated with volatile chemicals does not constitute untreated wood. For purposes of this chapter, plywood may be considered as untreated wood.)

Section 45.05.040 POLLUTION CONTROL COMMISSION

There is hereby created the Fairbanks North Star Borough Pollution Control Commission, which shall consist of nine (9) voting members. Such members shall be appointed by the Borough Chairman, subject to confirmation by the Assembly.

(a) Commission Members. The Commission members shall be borough residents and, insofar as practicable, shall include:

(1) a licensed physician;

(2) a professional engineer experienced in construction and air pollution control techniques, or a scientist with professional experience in local meteorological conditions and in the measurement and classification of air contaminants;

(3) a representative of industry who is familiar with air pollution control problems;

(4) a member of a local sportsman's conservation or civic group, who by his activities in such organization has demonstrated a personal concern for environmental quality;

(5) a representative of the agricultural community who is familiar with the air pollution problems.

(6) four members at large;

(b) Ex-officio Members. The following persons may sit as ex-officio members of the Commission:

(1) the Pollution Control Officer

(2) the Borough Chairman

(3) the Borough Planning Director

(4) the Chairman of the Borough Planning Commission

(5) the Borough Attorney

(c) Chairman and Vice Chairman. The Commission shall select its Chairman and Vice Chairman from its own voting members.

(d) Terms of Office of Commission Members. The term of a Commissioner shall be three (3) years, beginning on the first day of January. Terms shall be arranged so that at least two (2) members are appointed annually.

(e) Vacancies. When vacancies among voting members in the Commission occur through resignation, death, termination of residence in the borough, or removal for cause, the Borough Chairman shall appoint a member subject to confirmation by the Assembly to serve the remainder of the unexpired term.

(f) Removal for Cause. For good cause shown, the Borough Assembly may remove a voting member of the Commission by a two-thirds vote at a public meeting. Non-attendance at four successive meetings or hearings of the Commission may constitute good cause for the purposes of this section.

(g) Regular Meetings. This Commission shall meet at least once each month. So far as practicable, regular meetings shall be held on the same day of the week and at the same location each month.

(h) Special Meetings. Special Meetings may be called upon two days notice to the members of the Commission; however, emergency meetings may be called on less than two days notice. Special meetings may be called by any two voting members, by the Commission Chairman or by the Borough Chairman.

(i) Quorum. A majority of the Commission shall constitute a quorum for the transaction of business and five affirmative votes shall be necessary to carry a question.

(j) Expenses and Salaries. No voting member of the Commission shall receive a salary for his services.

(k) Powers and Duties.

(1) The Commission shall be notified and may make recommendations for air pollution provisions in any proposed ordinance relating to building construction and/or relating to permits for building construction.

(2) The Commission shall, upon the issuance of an emergency order by the Officer pursuant to Section 45.05.100, hold a hearing within 24 hours of the issuance of the emergency order. According to the provisions of said section, the Commission may affirm, modify, or set aside the order of the Officer.

(3) The Commission may propose ordinance or amendments to ordinances for consideration by the Assembly that would serve to protect and enhance the quality of the air within the borough. Prior to the submission of proposed ordinances to the Assembly, the Commission shall hold public hearings for the purpose of receiving the testimony.

(4) The Commission may promulgate appropriate rules and regulations implementing this chapter that shall become effective after approval by the Borough Chairman and approval by the Assembly. Prior to the submission of the proposed regulations to the Assembly, the Commission shall hold public hearings for the purpose of receiving testimony.

(5) The Commission may fully investigate nuisances, health hazards and other harmful effects related to or caused by air pollution. Such investigations may be instituted by the Commission on its own motion, on information from the Officer, or upon complaints received from private persons within the borough.

(6) The Commission shall develop comprehensive plans for the prevention, abatement, and control of air pollution in the borough. Such plans may include recommendations on subjects including, but not limited to, zoning, taxation, research and public relations.

(l) Public Hearings.

(1) On those matters which require a public hearing, the Commission shall adopt such procedures as shall most effectively assure full participation by all interested persons. The time, place and agenda of the hearing shall be published in a newspaper of general circulation within the borough not less than five (5) days prior to the hearing. For the purposes of this section no hearing on any subject shall be held unless the subject has been included in the published agenda. This subsection shall not apply to emergency hearings held according to the provisions of Section 45.05.100.

(2) Any person who will be specifically affected or whose property will be specifically affected by action of the Commission at a hearing shall be given, whenever practicable:

(A) five days prior to the hearing, notice of the hearing date, time, and place;

(B) an opportunity to be heard at the hearings; and

(C) a written decision of the Commission with findings and conclusions respecting that person or his property.

Section 45.05.050 POLLUTION CONTROL OFFICER

There is created the office of Pollution Control Officer. The Officer shall be directly responsible to the Borough Chairman for the implementation of policies and programs instituted pursuant to this chapter.

(a) Responsibilities.

(1) The Officer shall have the responsibility of investigation to further the purposes of this chapter including, but not limited to:

(A) investigation of citizen complaints;

(B) such investigation as the Commission or Borough Chairman may direct; and

(C) authority to inspect equipment, structures, and operations and to make measurements on private property at reasonable hours and with proper notice to the occupant of the premise.

(2) The Officer shall conduct such surveys and research as is necessary to assist the Commission in the drafting of regulations and ordinances.

(3) The Officer shall to the extent practicable encourage the voluntary cooperation by persons and affected groups to achieve the purposes of this chapter or regulations pursuant thereto.

(4) The Officer has the authority to issue citations to alleged violators of this chapter requiring the alleged violators to appear in a court of law.

(5) All zoning changes within the borough shall be brought to the attention of the Officer by the Borough Planning Director prior to the time notice is given for any public Planning Commission hearing. If the Officer feels that the proposed zoning change

will affect the air quality of the borough, he shall issue a report to the Planning Commission and Pollution Control Commission. The report may recommend approval, modification or disapproval of the proposed zoning change in the interest of maintaining or enhancing the air quality of the borough.

(6) The Officer shall seek voluntary cooperation of citizens, but has the authority to secure judicial search warrants for conducting routine or area inspection with regard to air pollution of any particular place, dwelling, structure, premise, or vehicle.

Section 45.05.060 VIOLATIONS

(a) It shall be unlawful for any person to operate or maintain any structure, device, machinery, open fire, or other instrumentality that discharges any air contaminant into the atmosphere which results in the contamination of the air above public property or above the private property of another person that:

(1) causes irritation to eyes, to the respiratory tract, or any other organ system to such a degree as to be harmful to human beings; or

(2) presents a safety hazard by significantly restricting visibility for the operation of automobiles and aircraft. This subsection shall not apply when the presence of uncombined water vapor is the only reason for the failure of the emission to meet the requirements of this section.

(b) It shall be unlawful for any person to engage in the open burning of hydrocarbons or organic substances which is likely to result in the emission of dense black smoke or obnoxious vapors including, but not limited to, petroleum products, plastics, rubber, asphalt, and asphalt-impregnated materials, except as stipulated in Section 45.05.060 (d) or except as may be authorized by the Officer in a special permit issued to municipal, State or Federal agencies.

(c) It shall be unlawful for any person to engage in the open burning of garbage or other putrescible animal or vegetable matter. This section shall not apply to the disposal of refuse from a single family in areas where garbage collection services are unavailable. Nothing in this section shall be construed to limit the responsibility of compliance with the provisions of Section 45.05.060 (a).

(d) It shall be unlawful for any person to engage in the open burning of trees, grasses, slashings, brush, and stumps except by permit from the Officer or his authorized representative. This section shall not apply when burning results from land clearing operations from a land area aggregating less than ten (10) acres. The decision whether the permit will be granted or denied will be based on the location of the burning, the meteorological conditions at the time

of the requested burning, the level of contaminants that may be expected to result from the burning and the benefits that would result from the burning. The Officer may also specify in the permit the manner in which the burning is to be carried out. For purposes of effecting a cleaner and more efficient fire, the permit issued by the Officer may grant an exemption to Section 45.05.060 (b).

(e) During periods in which a temperature inversion exists or is forecast to exist below an elevation of 2500 feet above sea level, and after the Officer issues a public order prohibiting all open burning, it shall be unlawful for any person to engage in open burning. For purposes of this section, the Officer shall have the discretion to issue a public order, and to designate specific regions of the borough within which the prohibition shall apply. The order shall be effective when broadcast on radio or television or upon publication in a newspaper of general circulation in the borough. The order prohibiting open burning shall be withdrawn when the inversion below 2500 feet elevation above sea level dissipates and when it is not likely to become reestablished below 2500 feet elevation above sea level within the next twenty-four (24) hours.

Section 45.05.070 EMISSION LIMITATIONS

It shall be unlawful for any person to maintain or operate a single source of emission whatsoever that discharges into the atmosphere any contaminant darker in shade or of such opacity to obscure an observer's view to a degree equal to or greater than that designated on the Ringelmann Chart, U.S. Bureau of Mines, as specified herein.

No person shall discharge in excess of No. 1 on the Ringelmann Chart except:

(a) emission not to exceed No. 3 (on said chart) for a period aggregating not more than five minutes out of each hour nor more than forty (40) minutes in a twenty-four (24) hour period is permitted;

(b) when the presence of uncombined water vapor is the only reason for the failure of the emission to meet the limitations of this section;

(c) when a permit has been obtained from the Officer to exceed the limits of this section for purposes of plant startup (No permit shall be valid for a length of time in excess of forty-eight (48) hours nor shall a permit be granted for any single source more than four (4) times each year. The permit shall establish upper limits of emissions for the period in which the permit is in effect.);

(d) vehicular emissions not to exceed No. 2 (on said chart) for a period not to exceed five (5) seconds are permitted;

(e) hot mix asphalt plants may discharge up to Ringelmann No. 3 for a

period not to exceed four (4) minutes during startup and shutdown; and

(f) smoke that results from the burning of untreated wood for purposes of cooking food or heating of a dwelling.

Section 45.05.080 EXISTING EQUIPMENT OR DEVICES CURRENTLY IN OPERATION OR UNDER CONSTRUCTION

Any equipment or device which is in operation or under construction prior to the date of adoption of this chapter or regulations pursuant thereto, and which equipment does not meet the provisions of this chapter or regulations pursuant thereto, shall be modified in a manner to bring said equipment into compliance within three years of the effective date of this chapter or regulations pursuant thereto.

(a) The Commission may upon petition grant for good cause shown, but only after public hearing following due notice, an exemption from the provisions of this chapter and the regulations pursuant thereto, for a period of time the Commission deems necessary for the equipment to be brought into compliance with the provisions of this chapter and regulations pursuant thereto. No extension may be granted to persons who are not, at the time of filing of the petition, making efforts in good faith to bring their devices or operations into compliance with the provisions of this chapter or regulations pursuant thereto.

(b) The Commission may modify or terminate said exemption.

Section 45.05.090 VARIANCES

(a) A persons who owns or is in control of a plant, building, structure, establishment, process or equipment may apply to the Commission for a variance from rules or regulations. The Commission may grant the variance, but only after public hearing following due notice, if it finds that:

(1) the emissions occurring or proposed to occur do not endanger human health or safety; and

(2) compliance with the rules and regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public.

(b) No variance may be granted under this section until the Commission has considered the relative interests of the applicant, other owners of property likely to be affected by the emissions and the general public.

(c) A variance or its renewal, granted under (a) of this section, shall be for periods and under conditions consistent with the reasons for

it and within the following limitations:

(1) if the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement or control of the air pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available, subject to the taking of substitute or alternate measures that the Commission may prescribe;

(2) If the variance is granted on the ground that compliance with the particular requirement from which variance is sought will necessitate the taking of measures which, because of their extent or cost must be spread over a considerable period, it shall be for a period not to exceed the reasonable time which, in opinion of the Commission, is necessary. A variance granted on this ground shall contain a timetable for taking action in an expeditious manner and shall be conditioned on adherence to the timetable; and

(3) if the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided in (c), (1), and (2) of this section, it shall be for not more than one year.

(d) A variance granted under this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the Commission on account of the variance no renewal of it shall be granted unless, after public hearing on the complaint following due notice, the Commission finds that renewal is justified. No renewal may be granted except upon application for it. This application shall be made at least 60 days before the expiration of the variance. Immediately upon receipt of an application for renewal the Commission shall give public notice of it.

(e) A variance or renewal shall not be a right of the applicant but shall be in the discretion of the Commission. However, a person adversely affected by a variance or renewal granted by the Commission may seek review de novo in the Superior Court of the State of Alaska. Judicial review of the denial of a variance or renewal may be had only on the ground that the denial was arbitrary or capricious.

(f) No variance or renewal granted under this section may be construed to prevent or limit the application of the emergency provisions of Section 45.05.100.

Section 45.05.100 EMERGENCY PROCEDURE

If the Officer finds that a generalized condition of air pollution exists and that it creates, or is in imminent danger of creating, an emergency requiring immediate action to protect human health or safety, he shall, with the concurrence of the Borough Chairman, order the person or persons causing or contributing to the air pollution to reduce or discontinue immediately the emission of air contaminants. The order shall fix a place and time, not more than 24 hours later, for a hearing to be held before the Commission. Within 24 hours after the commencement of the hearing, and without adjournment of it, the Commission in a written decision with findings of fact and conclusion may affirm, modify or set aside the order of the Officer. A person aggrieved by a decision reached pursuant to this section by the Commission may appeal to the Assembly for review de novo.

Section 45.05.110 INJUNCTIVE RELIEF

In the name of the borough, the Borough Attorney may with the concurrence of the Commission seek an injunction to enjoin any person who operates or maintains any structure, device, machinery, open fire or other instrumentality that discharges into the atmosphere any air contaminant which results in the contamination of the air above public property or above three or more separately-owned parcels of real property which:

(a) is offensive, obnoxious, odoriferous, or opaque to the extent that substantial reduction in the value of adjacent property occurs, or is reasonably expected to occur;

(b) renders adjacent property uninhabitable;

(c) causes detectable aggravation or exacerbation of respiratory, circulatory, or skin diseases, or other disease states of human beings;

(d) damages the health of domestic livestock or damage vegetation to such a degree as to render it unmarketable, or to cause a substantial reduction in its value, or in any other manner renders its production more costly;

(e) damages wildlife or indigeneous vegetation to such a degree as to measurably reduce the carrying capacity of the land for wildlife;

(f) impairs the value of properties, whether public or private, for recreational purposes; or

(g) causes noticeable or measurable damage to buildings, materials, paint surfaces, fabrics, and textile pigments.

Section 45.05.120 ENFORCEMENT

(a) Fines and Punishments. Any person found in violation of the provisions of this chapter is punishable upon conviction by a fine of not more than $300 for each violation. In the case of continuing violation, each day of violation shall constitute a separate offense.

(b) Violation. For the purposes of this section, a violation is:

(1) any act or omission declared to be unlawful in this chapter;

(2) the knowing maintenance of an emission or pollution condition prohibited by this chapter;

(3) the failure of any person to comply with an order issued, or regulation promulgated pursuant to this chapter.

(c) Violation by Corporate Person. All orders hereunder directed to a corporate person shall be issued to the president of such corporation or to his duly authorized agent. In the event of prosecution under Section 45.05.120 (a), the corporate treasury and assets shall be liable for payment of fines, and the president of such corporation, or such other person who as officer or agent thereof is authorized to decide and direct compliance, shall be criminally liable thereunder.

(d) Civil Remedies. An action may be brought in the name of the borough to employ any or all of the remedies available under the statutes of the State of Alaska, the Common Law and the General Equity principles to prevent, restrain, enjoin, terminate, and punish violations of this chapter.

(e) Proceedings in Emergency. In the event of an emergency declaration under Section 45.05.100 hereof, the Officer shall, immediately after the emergency session of the Commission, issue and direct the personal service of such pleadings, orders and notices as the Commission may require. If preventative or corrective measures are not immediately taken in accordance with any emergency order of the Officer or Commission after he or they find that a generalized condition of air pollution exists affecting human health and safety, the Borough Attorney may institute proceedings in a court of competent jurisdiction for any injunctive relief to enforce this act or rules or regulations or orders pursuant thereto. Such injunctive relief may include both temporary and permanent injunctions.

(f) Remedies Cumulative with State Remedies. No provision of this section shall be construed as pre-emptive of remedies available to the State under AS 18.30.230, its successor or substitute, or other state enactment. The Borough Attorney shall notify the District Attorney for the Fourth Judicial District of all violations and alleged violations hereunder, except those alleged violations

which are plainly insubstantial, and shall cooperate fully with the District Attorney in any state prosecution.

(g) Civil Remedies by Private Parties Unaffected. This chapter does not affect the right of a person to bring an action for damages or other relief, because of an injury caused by air pollution.

Section 45.05.130 CONFIDENTIALITY OF RECORDS

Any records or other information furnished to the Officer or the Commission concerning one or more air contaminant sources, which records or information, as certified by the owner or operator, relate to production or sales figures or to processes or production unique to the owner or operator or which tend to affect adversely the competitive position of such owner or operator, shall be only for the confidential use of the Officer or the Commission in the administration of this title, unless such owner or operator shall expressly agree to their publication or availability to the general public or unless the disclosure of such information is required for the prosecution of a violation of this title or regulations thereunder. Nothing herein shall be construed to prevent the use of such records or information by the Officer or the Commission in compiling or publishing analyses or summaries relating to the general condition of the outdoor atmosphere; provided that such analyses or summaries do not identify any owner or operator or reveal any information otherwise confidential under this section.

Section 45.05.140 SEVERABILITY

Should any section, paragraph, sentence, clause or phrase of this chapter be declared invalid or unconstitutional for any reason, the remainder of said chapter shall not be affected thereby.